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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,592	12/28/2000	William E. Illidge	71493-841/jpw	4828
26123	7590	09/08/2004	EXAMINER	
BORDEN LADNER GERVAIS LLP WORLD EXCHANGE PLAZA 100 QUEEN STREET SUITE 1100 OTTAWA, ON K1P 1J9 CANADA			CHANG, RICHARD	
		ART UNIT		PAPER NUMBER
		2663		

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/761,592	CHUN ET AL.
Examiner	Art Unit	
Richard Chang	2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 05 March 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) _____ is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-4, 10-13, 19-22, 27-30 and 35-39 is/are rejected.

7) Claim(s) 5-9, 14-18, 23-26 and 31-34 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 March 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-4, 10-13, 19-22, 27-30 and 35-39 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US patent No. 6,567,666 ("Czaja et al").

Regarding claims 1, 10, 19, 27,35 and 37 Czaja et al teach an advanced method and CDMA systems for forward link inter-generation soft handoff between second generation (CDMA 2G non high-speed data service option as in IS-95 standard) and third generation (CDMA 3G for high-speed data service option as IS-2000 standard) CDMA systems (See Fig. 1, Col. 4, lines 12-30) using an example wherein a 2G-3G CDMA system includes a common base station controller 121 controls both the first base station 122 and the second base station 123 (one as a CDMA 2G system and the other as a CDMA 3G system) and a mobile station 124 (a method for switching a high-speed data packet data call ... in a CDMA communication system having a BSC ... an area of high-speed data coverage) comprising the steps of
the communication between a mobile station 124 with a first base station 123 (CDMA 3G coverage) and as the mobile station moves it must be handed off to a closer

base station 122 (CDMA 2G coverage) (identifying that the MS is exiting an area of high-speed data ... coverage), (See Fig. 4, Col. 8, lines 12-43)

the mechanism for informing the mobile station about the surrounding network parameters and the base station controller supervising the two different generations (CDMA 3G and CDMA 2G) of base stations wherein each base station must have all the other system's base stations stored into the Neighbor List Message Extended Neighbor List Message and the base station can use the detected information from the mobile station to manage the forward link Soft Hand Off capability through the General Handoff Direction Message and Extended Handoff Direction Message (negotiating service options between the MS and the BSC), (See Fig. 1, Col. 4, lines 31-66)

the decision that the mobile station 124 makes a forward link between CDMA 3G high speed data service call to CDMA 2G non-high speed data service call with the second base station 123 before terminating the link with the first base station 122 (switching from ... service option); (See Fig. 4, Col. 8, lines 25-65).

Regarding claims 2, 11, 20, 28, 36 and 38-39, Czaja et al further teach that the CDMA 2G system covers the non-high speed data service including circuit switched service as specified in the IS-95 standard and the CDMA 3G system covers the high speed data service as specified in the IS-2000 standard, (Col. 6, lines 14-36).

Regarding claims 3, 12, 21 and 29, Czaja et al further teach that the mobile station measures the pilot signals in the active, candidate and neighbor sets and reports the strengths to the base station and since the base station knows which of the detected and reported pilots are associated with second or third generation system, the base

station can use this information to manage the forward link Soft Hand Off capability through the General Handoff Direction Message and Extended Handoff Direction Message. (the BSC proposing to the MS ...data service option be connected),

Regarding claims 4, 13, 22 and 30, Czaja et al further teach that since the same controller supervises both generations, the base station controller allocates the necessary channel resources for each of these two systems and indicating the mobile station that the forward link Soft Hand Off between the 2G and 3G systems should be performed (negotiating service options between the MS and the BSC), (See Fig. 1, Col. 4, line 41 - Col. 5, line 28).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 40-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,567,666 ("Czaja et al") in view of patent No. 6,747,964 ("Bender").

Regarding claim 40-45, in the previous action items 2, Czaja et al teach substantially all the claimed invention but did not disclose expressly the particular application involving limitations of

"Computer-readable media embodying a program of instructions executable by a computer to perform a method for switching between a high-speed data packet data call

and a non-high-speed data circuit switched data call in a CDMA communication system".

Bender teaches a novel and improved method and apparatus for high data rate transmission in a wireless CDMA communication system wherein the key functional component ML-PPP processor 36 may be implemented with a microprocessor having computer readable memory for storing software instructions to perform the multi-link aggregation and separation (computer-readable media embodying a program of instructions executable ... switched data call in a CDMA) (See Fig. 3, Col. 5, lines 9-65).

A person of ordinary skill in the art would have been motivated to employ Bender in Czaja et al in order to obtain a CDMA system and a method to softly switch calls between CDMA 3G data service coverage and CDMA 2G data service coverage and to take advantage of an implementation by storing software instructions in computer readable memory associated with the main processor to perform the key functions in claims 40-45.

The suggestion/motivation to do so would have been to accommodate a CDMA system and a method to softly switch calls between CDMA 3G data service coverage and CDMA 2G data service coverage and to take advantage of an implementation by storing software instructions in computer readable memory associated with the main processor to perform the key functions in claims 40-45. At the time the invention was made, therefore, it would have been obvious to one of ordinary skill in the art to which the invention pertains to combine Bender with Czaja et al to obtain the inventions specified in claims 40-45.

Allowable Subject Matter

5. Claims 5-9,14-18,23-26 and 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if no art rejection can be applied.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chang whose telephone number is (571) 272-3129. The examiner can normally be reached on Monday - Friday from 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau T Nguyen can be reached on (571) 272-3126. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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rkc

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